

REMARKS

Upon entry of the above amendments, this application will contain claims 37-41 and 43-58 pending and under consideration. The application was originally filed with claims 1-36. Claims 2-36 were canceled in a Preliminary Amendment. Claim 1 was canceled and claims 37-52 were added in a Second Preliminary Amendment. In the present Response, claims 43, 44 and 47-48 have been amended, claims 50-52 have been canceled, and new claims 53-58 have been added.

Claims 37-41 have been indicated as being allowed. For the reasons discussed more fully below, it is believed that the non-allowed claims 43-58 are also patentable over the cited references, and therefore, withdrawal of all outstanding rejections is respectfully requested.

Rejections Under 35 USC §102

Claims 43-50 and 52 were rejected under 35 U.S.C. 102(b) as being anticipated by Buelna et al. (5,700,273). However, claim 43 has been amended to claim a hollow needle having a portion of suture disposed within a lumen of the hollow needle, the needle being configured to move in a distal direction and deliver the suture distally through a tissue membrane. Buelna discloses a needle and hollow needle, the needle configured to move distally to engage a piece of suture, wherein the hollow needle is then advanced distally to pinch the suture captured by the needle between the needle and the hollow needle. The present invention is distinguishable over Buelna because Buelna fails to teach a hollow needle which delivers suture. Instead, Buelna teaches the opposite - a hollow needle to retrieve suture. Claim 47 similarly is distinguishable as requiring an apparatus comprising a hollow needle and at least one length of suture disposed within the lumen of the hollow needle. Claims 44-46 and 48-49 depend directly or indirectly from claim 43 or 47, and are therefore distinguishable over the art for the same reasons.

New independent claim 55, and new claims 56-58 dependent therefrom, are allowable over the art for the reasons articulated by the Examiner in the Official Action of 9/27/05, wherein it was stated that:

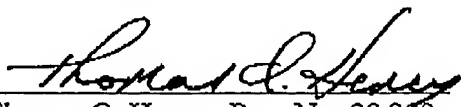
"None of the prior art of record, alone or in combination, discloses an apparatus for suturing a tissue membrane with, inter alia, a tubular body, a needle, and an openable hemostasis seal member, wherein the needle has an eyelet and a length of suture through the eyelet."

Claim 55 is patentably distinct from the allowed claim 37 in that claim 37 includes the further limitation of a suture chamber, which according to the Examiner's statement of allowance is not a component required for allowance.

Conclusion

In view of the foregoing remarks, Applicants respectfully submit that the cited references, either singly, or in combination, do not disclose or make obvious the claimed invention. Accordingly, reconsideration leading to withdraw of all the rejections under 35 U.S.C. §102 and passage of this application containing claims 37-41 and 43-58 are respectfully requested. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters, which may be addressed in that fashion.

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